

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Civil Action No. 05-30111-MAP

<hr/> JAMES V. CARIDDI)	
)	
Plaintiff,)	
)	
v.)	
)	
CONSOLIDATED ALUMINUM)	
CORPORATION)	
)	
Defendant.)	
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AFFIDAVIT OF ROBERT D. COX, ESQUIRE

I, Robert D. Cox, Esquire, on oath, hereby depose and state the following to be true to the best of my knowledge, information and belief:

1. I am an attorney admitted to practice law in the Commonwealth of Massachusetts and the United States District Court of Massachusetts. I am counsel for Consolidated Aluminum Corporation in this matter.

2. Attached hereto as Exhibit "A" are true and accurate copies of excerpts from the deposition transcript of Mr. Norman R. Lappies dated September 29, 2004.

3. Attached hereto as Exhibit "B" is a true and accurate copy of Plaintiff's Responses to Defendant Consolidated Aluminum Corporation's First Set of Interrogatories to James V. Cariddi dated October 14, 2005.

Signed under the pains and penalties of perjury this ___ day of January, 2006.

/s/ Robert D. Cox, Jr.

CERTIFICATE OF SERVICE

I, Robert D. Cox, Jr., hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on January 20, 2006.

/s/ Robert D. Cox, Jr.

EXHIBIT A

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EXHIBIT A

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss. Department of the Trial Court
Superior Court
Civil Action No. BECV2004-00214
Pages 1-206

IN THE MATTER OF: PETITION
OF CONSOLIDATED ALUMINUM
CORPORATION TO PERPETUATE
THE TESTIMONY OF NORMAN R. LAPIES

DEPOSITION OF: NORMAN R. LAPIES, taken
before Heather J. Davis, Certified Shorthand
Reporter and Notary Public, pursuant to Rule 30
of the Massachusetts Rules of Civil Procedure,
at the offices of CAIN, HIBBARD, MYERS & COOK,
66 West Street, Pittsfield, Massachusetts on
September 29, 2004, commencing at 10:02 AM.

APPEARANCES:

(SEE PAGE TWO)

Heather J. Davis
Registered Merit Reporter

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1 Q. Any education or training programs
2 that you participated in after you went to high
3 school?

4 A. Pertaining to what?

5 Q. Anything. Your career, your work,
6 night school, trade school?

7 A. Just on-the-job training, that's
8 all.

9 Q. On-the-job training?

10 A. Mm-hmm.

11 Q. Now, you grew up on a farm, worked
12 on a farm?

13 A. Quit, got married.

14 Q. Quit, got married. When did you
15 quit and get married?

16 A. At 18. 1958.

17 Q. 1958. And referring to your
18 affidavit, you state that you started working
19 at the facility in North Adams?

20 A. '61.

21 Q. '61. So tell me what you did
22 between 1958 and 1961 for work.

23 A. Construction.

24 Q. What type of construction?

1 A. Drove truck.

2 Q. Anything else?

3 A. No.

4 Q. Drove a truck?

5 A. Yup. Construction. Supported my
6 family.

7 Q. Okay. Who did you work for?

8 A. I worked for John Kroll in
9 Cheshire, construction. Worked for Conway
10 Construction. Worked for Bianchi Construction.

11 Q. And all the work was driving a
12 truck?

13 A. Yes.

14 Q. Did you get a class 3 license?

15 A. You didn't need them then. All you
16 need to do is show up and work.

17 Q. That's what we need. Now, at the
18 time you first worked at the facility in North
19 Adams, it was owned by Pfister Aluminum --

20 A. Pfister Aluminum.

21 Q. -- Tubing?

22 A. P-F-I-S-T-E-R.

23 Q. Corporation, is that right?

24 A. Yes.

1 Q. And how did it come about that you
2 took a job at that location?

3 A. I had a wife and two young children
4 that were hungry.

5 Q. Apart from your need to have
6 income, how did you learn about the job? How
7 were you qualified for the job?

8 A. Just laid off from construction,
9 out looking for a job so I could support my
10 family. I happened to stop and made an
11 application.

12 Q. And what was the application for?

13 A. Anything. Machine operator.

14 Q. And your affidavit states that you
15 first worked as a machine operator, is that
16 right?

17 A. This affidavit? I don't know what
18 it says.

19 Q. Let me back out. When you first
20 worked for the company you worked as a machine
21 operator?

22 A. Yes.

23 Q. Did you have any training prior to
24 joining the company --

1 A. No.

2 Q. -- as a machine operator?

3 A. No. On-the-job training.

4 Q. On-the-job training. I'm learning.

5 Are you currently employed?

6 A. No. I'm 64 years old. I'm retired.

7 Q. Do you run any businesses?

8 A. I dabble in antiques.

9 Q. Do you have an antique shop?

10 A. I have a little warehouse I work
11 out of.

12 Q. Does it have a name?

13 A. No. It's for sale.

14 Q. Where is the warehouse?

15 A. I work out of my garage most of the
16 time, and I got a little shop down in North
17 Adams I work out of on Houghton Street.

18 Q. Okay. Now, focusing on your
19 employment, your affidavit states that you
20 stopped working in 1976 at the facility, is
21 that right?

22 A. Yeah. They closed.

23 Q. What did you do after that?

24 A. I started a fabricating business

1 Q. If you could first draw a general
2 footprint, outline, of the facility as you
3 recall it in 1961.

4 A. Okay. You've got to understand,
5 this is an old cotton mill so there was bays,
6 we called them bays, in here. We had, they
7 call them drawing benches. What we done is
8 take raw aluminum, called a bloom, and we'd
9 take a tube and we changed the diameter and the
10 thickness of the wall of that tube by drawing
11 it through a process of dies and mandrels.
12 While we stretch it, they are called
13 stretching, they are actually drawing it, they
14 would change the OD of the tubing and the wall
15 thickness. We'd take a piece of bloom probably
16 fourteen feet long and we'd, it depends on the
17 size we wanted to finish, take say an inch and
18 3/8 piece of tubing, 095, .095 in thickness,
19 and we would draw that three times and we'd
20 take it down to one inch, say 049, on the wall
21 thickness.

22 Q. Okay.

23 A. We'd change it from an inch and 3/8
24 down to one inch by drawing it through a

1 process of mandrels and dies. And at the time
2 we had to pump oil on the inside of this tubing
3 and we had to have oil on the outside of the
4 tubing because the friction going through the
5 dies and the mandrels would break the tubing.
6 They'd call it tearing. It would put a white
7 line on the outside of the tubing which we'd
8 have to throw the tube away. Because the tube
9 had to be perfect. And we stretched this,
10 probably, a tube fourteen feet long, we'd
11 probably end up on -- with an 049 wall, one
12 inch, we'd probably end up sixty-five feet.

13 Q. Long?

14 A. Yeah.

15 Q. One piece?

16 A. One piece. And we'd do one bundle
17 at a time, which weighed approximately a
18 thousand, we tried to keep our bundles about a
19 thousand pounds at all times, because of the
20 cranes, we had to move them from the bays.
21 Like I said, we had bays. You got to
22 understand, there's posts in these bays, that's
23 what's holding the roof up.

24 Q. Okay.

1 beneath the floor --

2 A. Into the cellar.

3 Q. -- into the cellar?

4 A. Right.

5 Q. And how large were these tanks?

6 A. They probably held -- there's two.

7 We had two different types of drawing oil.

8 There's actually a partition between the tanks.

9 The tanks were square. They probably held,

10 each tank, probably two hundred gallons. We

11 used to put them in by fifty-five-gallon drums.

12 Each side would take probably two drums. So

13 you know, a hundred and ten gallons each side.

14 You had a heavy oil and a finish oil.

15 Q. Okay. So each side -- so there was

16 a tank on each side?

17 A. One big tank with a partition in

18 the middle of it where we had heavy oil on one

19 side and light oil on the other side. The

20 lighter the oil, the shinier the tube. For the

21 breakdown bench we just wanted heavy oil.

22 Q. I'm sorry. On the breakdown bench

23 you just wanted to have?

24 A. We used heavy oil.

1 Q. Heavy oil?

2 A. Yes.

3 Q. We're still on the breakdown bench?

4 A. Yes. Because it's quite a process.

5 After the first bench, you picked it up with
6 cranes again and you moved it down to the next
7 bench. And the same process.

8 We put it up on top of a rack,
9 the rods come up, you put three of them on
10 the tubes, you have rollers that roll the
11 tubes right onto the rods. You've got to
12 understand, these machines are long.

13 Q. Yes.

14 A. You push them onto the rods, had to
15 push them on a little bit by hand, drop the
16 rods, hit the pedal, and move them forward into
17 the dies again. Bring the truck in, boom, draw
18 them through another set of dies. Change the
19 OD and wall again, the thickness of the wall.

20 Q. OD?

21 A. Outside diameter.

22 Q. Okay.

23 A. And the thickness of the wall. And
24 that would draw it another -- you could

1 Q. You're doing pretty good.

2 A. I know it by heart, I can tell you.

3 I got everything up here. (Indicating)

4 Q. The product would be stretched from
5 a fourteen-foot length, approximately?

6 A. Approximately fourteen.

7 Q. To about what length?

8 A. We ended up probably with
9 sixty-four feet. We didn't want much scrap so
10 we figured out -- because we'd have to cut
11 these -- after this is finished, you have to
12 understand, there's saw benches here, saw
13 horses, and there would be a saw here, with
14 benches on the other side.

15 You'd pick up this bundle
16 after it was finished. This is the third
17 draw of this finished product. First,
18 second, third draw. You picked up the bundle
19 with all the oil dripping off of it. You got
20 to understand, this thing is saturated with
21 oil. Full. Tubes are full of oil. There's
22 oil on the outside, there's oil on the
23 inside. So you pick it up and you move it
24 over to the saw. We had two people working

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1 on the saw. They'd grab say five or six
2 tubes, whatever they could handle, and you're
3 talking the sixty-foot tube, and they'd pull
4 them up and they put them on a radio arm saw
5 and they cut the points off, because that was
6 scrap. Okay? And then you had the saw set,
7 if you wanted twenty-foot lengths --
8 or usually -- well, you had to cut them
9 twenty -- it depends. Say twenty foot. It
10 depended on the length of the finished tube.
11 If you wanted it four-foot lengths at the
12 end, you had to roll it straight.

13 And there's another process
14 that's run on mineral spirits spraying all
15 over the place.

16 Q. We'll get to that in a bit.

17 A. But cut this, say, four, eight,
18 twelve, sixteen -- if you cut it say twenty
19 foot four, this is what you'd cut the tubing,
20 and you got -- well, it would have to be more
21 than sixty. Say sixty-five feet it would be.
22 But you got twenty foot, four inches. Twenty
23 foot, four inches, so you'd get three cuts out
24 of a tube. And the end of the tube would be

1 A. No. Number two draw, number three
2 draw, number one draw. (Indicating)

3 Q. Got it. Okay. With the number
4 three draw, I think you said that a lighter oil
5 was used in connection with that bench.

6 A. Yup.

7 Q. Could you explain that for us?

8 A. The lighter the oil -- because on
9 the finish draw you wanted a bright finish on
10 the tubing, like chrome, so you used the light
11 oils. Sometimes you could mix your oil with
12 kerosene. You could put just a dab of kerosene
13 in the oil and that's how you cheated to get a
14 good shine.

15 Q. Okay.

16 A. What we do is we'd dunk a kerosene
17 rag in a pail of kerosene, or a rag, and put it
18 in the oil, and we'd wrap it around the tube as
19 it was going through the die and make it like
20 chrome.

21 Q. And that would be for the third
22 draw?

23 A. Finish draw.

24 Q. The third draw is the same as the

1 slipped out of your hand, they'd fall down them
2 holes in the basement. So every day, yeah, you
3 were probably down the basement retrieving a
4 pipe wrench.

5 Q. And the machines we're talking
6 about are over here? (Indicating)

7 A. Are the benches.

8 Q. Are the benches?

9 A. Yes.

10 Q. So you'd go in the basement?

11 A. To try to find your pipe wrenches,
12 sure. But you had to watch where you walked
13 because there was lakes down there.

14 Q. Now explain that.

15 A. All the oil that was in the
16 basement, they used to dig like ditches to
17 divert the oil into like little ponds in the
18 basement.

19 Q. Okay.

20 A. So people wouldn't, when you were
21 down getting your tools, employees wouldn't get
22 hurt down there, if you'd fall in. Some of
23 them holes were deep.

24 Q. Tell me about the ditch digging.

1 A. I didn't have nothing to do -- it
2 was before even I got there. They had all
3 these canals dug into the basement. I'd say
4 when the company first started they were having
5 trouble down there, so they dug like little
6 ditches around the machines and diverted all
7 the oil like into what I call little ponds. I
8 don't know what the heck they were.

9 Q. Okay. What is your source of
10 information of the digging, the actual digging?

11 A. I saw them.

12 Q. Did you see people digging?

13 A. No. But I saw the damn canals.

14 Q. Okay. And these were dug in --

15 A. They had to have been dug. They
16 didn't grow that way, you know.

17 Q. Did prior employees, earlier
18 employees, tell you about putting these
19 trenches in, if you remember?

20 A. I don't remember that. I mean I
21 know they were there because I used to have to
22 jump over them and watch where I was going.
23 There was no lights in the basement. You went
24 down there with a flashlight trying to find

1 your wrenches. You're responsible for your
2 tools and you're making a dollar and fifteen
3 cents an hour, you don't want to lose an
4 eight-dollar wrench. You had to pay for it.

5 Q. Okay. So you go in the basement.
6 Your first experience in the basement was you
7 retrieve a tool?

8 A. My first experience was, oh, my
9 God, let me out of here.

10 Q. And you saw places where it was dug
11 in order to --

12 A. Divert the oil.

13 Q. To divert oil.

14 A. Yes. Away from the machines, you
15 know.

16 Q. Okay. And there was no lighting in
17 the basement?

18 A. There was like basement windows to
19 let some light in but I mean, you know, I'm not
20 an owl, I can't see that good in the dark.

21 Q. Okay. You described before in this
22 plan the generator room which went into the
23 basement --

24 A. Yes.

1 they'd wheel it in in wheelbarrows, that's how
2 they'd pour it.

3 Q. What you described, what I had you
4 describe, of going in the basement was in 1961,
5 is that right?

6 A. Yes.

7 Q. Did the conditions in the basement
8 that you described with respect to oil dripping
9 change?

10 A. No.

11 Q. Constant throughout the time period
12 that you were there?

13 A. Of course. The oils on the
14 machines never changed. The breakage on the
15 lines, it never changed.

16 Q. And the nature of the oils, or the
17 type of oils that were dripping through into
18 the basement, were the drawing oils from the
19 bench area?

20 A. Yes. Yes.

21 Q. With respect to the basement, in
22 your affidavit you refer to a flume, a flume
23 structure.

24 A. Yes.

1 A. Mop the floor the best we could.
2 Then take squeegees and squeegee the whole
3 floor all the way down, all the way down the
4 bay, and everything went right into the cellar.

5 Q. All right. And during the time
6 that you did this the squeegeeing activity was
7 all toward one direction?

8 A. Towards the generator room. From
9 the back to the front. Always from the back to
10 the front. Because all your pans were coming
11 in this way, your oil pans. We cleaned the
12 pans, we'd clean everything.

13 Q. Okay. Help me out on the pans.

14 A. The pans are underneath the draw
15 benches. I told you, they are an inch and a
16 half high.

17 Q. So you'd clean those out as well?

18 A. Oh, yes, sure.

19 Q. How would you clean out the pans?

20 A. Squeegee them out, mop them out
21 with solvent afterwards.

22 Q. Could you move the pans, lift the
23 pans?

24 A. Oh, no, no.

1 Q. So you put solvent in the pans?

2 A. We'd squeegee the oil out the best
3 we could, or mop it out with the mops and the
4 solvent, and then keep mopping until they were
5 spotless. With solvent.

6 Q. So the oil that was in the pans
7 would get solvent, which are mineral spirits --

8 A. Correct.

9 Q. -- put into it, right? That would
10 all get squeegeed out and go into the floor?

11 A. Exactly.

12 Q. And as the floor is cleaned, after
13 it is mopped and you said scrubbed, you mean
14 scrubbed with a mop?

15 A. A big mop, industrial mop. You
16 know.

17 Q. Cloth mop?

18 A. Yeah.

19 Q. After it was mopped, the material
20 would be squeegeed in one direction?

21 A. Exactly.

22 Q. Now, you've depicted here a number
23 of bays, where you have five bays there.

24 A. Exactly.

EXHIBIT A

Continued Pages 21 – 27

1 activity?

2 A. Be part of a Sunday cleanup

3 activity.

4 Q. Would the points then be pushed to
5 the end?

6 A. No, no. They'd be picked up and
7 thrown in the barrel and taken later on to the
8 baler. You always save your scrap. You
9 weren't allowed to get rid of scrap.

10 Q. Apart from the points, were there
11 metal shavings that were on the floor as a
12 result of the drawing process?

13 A. No.

14 Q. How many employees did it take to
15 do the cleanup operation in four to five hours?

16 A. Well, probably six or eight.

17 Q. And would you normally have six or
18 eight employees?

19 A. Volunteers, sure.

20 Q. If --

21 A. In the old days, yes, sure.

22 Everybody wanted to eat.

23 Q. And when you say the old days, what
24 do you mean by that?

1 A. Early '60s.

2 Q. And this is when you were involved
3 in doing this yourself?

4 A. I was a machine operator, yes.

5 Q. Because later on you didn't do that
6 because you were in management.

7 A. Hell, no. I didn't want to get
8 dirty.

9 Q. Would there be occasions when the
10 cleanup would not occur because six or eight
11 employees did not volunteer to do the work?

12 A. Yes.

13 Q. So you'd skip a week or a couple
14 weeks?

15 A. Yeah, sure.

16 Q. With what sort of frequency would
17 that occur?

18 A. When it got that bad you usually
19 shut down, like say on a Friday afternoon,
20 you'd shut the machines off. You understand,
21 we didn't want to lose production. You were
22 doing volume, you hated to lose production,
23 because you were pushed to make a quota. So
24 when you shut a machine down you were losing

1 A. Mops and squeegees.

2 Q. Same process?

3 A. Yes.

4 Q. Go over and get a bucket full of
5 mineral spirits?

6 A. And try to mop it up the best they
7 could. I mean you just didn't blatantly get
8 buckets and throw them on the floor. You went
9 over and got a mop pail full for your mop and
10 then you got maybe a twelve-gallon pail full to
11 throw and mop them around, and bring the mop
12 out and mop it around some more and squeegee
13 out the excess into the cellar. I mean nobody
14 was trying to do nothing bad, you know. And it
15 was common practice in the old days to do that.
16 Nobody ever thought nothing about it. You go
17 to any factory around North Adams that's got
18 trouble. You got Mass. MoCA up there sitting
19 on -- if you fell in the cellar of Mass. MoCA
20 you come out glowing.

21 Q. So how do you know this is a common
22 practice for any of these factories up there?

23 A. How about General Electric?

24 Q. I'm asking you.

1 A. Well, you're an educated man. Look
2 at Pittsfield. It's contaminated by General
3 Electric. Sprague Electric contaminated North
4 Adams. It was a practice in the old days.
5 They didn't think nothing's wrong with it. You
6 got a whole section in North Adams, they had to
7 tear every house down over there because it's
8 contaminated with PCBs from Sprague's. People
9 were dying from cancer over there. The land is
10 contaminated. It was practice to do things
11 like that.

12 Q. Okay. And --

13 A. There was nothing thought wrong of
14 it.

15 Q. And the practice that you're
16 talking about is to clean floors?

17 A. To clean your area, sure. Clean
18 your floor, clean your factory. You wanted to
19 work in a clean environment.

20 Q. And this particular practice you're
21 talking about is applying mineral spirits to
22 the floor?

23 A. I'm not saying it's right but I'm
24 saying at the time it was right.

1 Q. At the time it was right?

2 A. You were told to do it, it was the
3 right thing to do. You followed instructions.

4 Q. And you didn't think there was
5 anything wrong with it at the time?

6 A. At the time, no, of course not. Of
7 course not. I mean I know better now but I
8 mean I'm forty years older than I was then. Of
9 course it's wrong, but I didn't know it at the
10 time. Your boss comes out and tells you to mop
11 the floor with mineral spirits, you mop it.

12 Q. So it's fair to say then that this
13 practice of cleaning the floor the way you
14 described it, using mineral spirits to mop it
15 up and then to squeegee it into the floor and
16 to go down to the basement below, that that
17 practice was not against any company policy?

18 A. Oh, no, of course not.

19 Q. And that practice was not contrary
20 to any type of directive from St. Louis or
21 management or anyone within the facility?

22 A. They didn't care how you cleaned it
23 up as long as when the outsiders come in they
24 wanted the place clean. That's all.

1 Q. I may have asked this before, and I
2 apologize, did the condition of the basement
3 and what you observed there first in 1961 and
4 then later on, did it change in any fashion?

5 A. Just got worse. That's all.

6 Q. And in what sense did it get worse?

7 A. More oil.

8 Q. Were there any changes in the
9 ditches during the time period --

10 A. I had nothing to do with them
11 ditches. I don't know nothing about nothing.

12 Q. Did you observe any different
13 ditches or different ditch configurations?

14 A. No. We never sent nobody down to
15 dig ditches. We had nothing -- nobody was made
16 to go in that cellar.

17 Q. Okay.

18 A. We certainly didn't send somebody
19 down to dig ditches. No way.

20 Q. Just so I'm clear on this, during
21 the time period that you worked at the
22 facility, no one dug any ditches in the
23 basement?

24 A. Not that I'm aware of. I am not --

EXHIBIT B

Pages 1 – 12

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 05-30111-MAP

JAMES V. CARIDDI,
Plaintiff

v.

CONSOLIDATED ALUMINUM CORPORATION,
Defendant

**PLAINTIFF'S RESPONSES TO DEFENDANT
CONSOLIDATED ALUMINUM CORPORATION'S
FIRST SET OF INTERROGATORIES TO JAMES V. CARIDDI**

The plaintiff, James V. Cariddi ("Cariddi"), pursuant to Rule 33 of the Federal Rules of Civil Procedure, answers the First Set of Interrogatories from Consolidated Aluminum Corporation ("Conalco"), as follows.

INTERROGATORIES

Interrogatory No. 1

With respect to the alleged presence of "contaminated waste oil and other hazardous substances at the Facility when Conalco owned and operated the Facility" referenced in paragraphs 38-43 of Count I of the Complaint (hereinafter "Substances"), do you contend that the Substances contained Hazardous Substances which had been purposefully introduced into the Substances by the manufacturer or supplier of the Materials prior to Conalco's use? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the

discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 2

Do you contend that the Substances contained Hazardous Substances not normally present in such Substances? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 3

Do you contend that Hazardous Substances, normally found in such Substances, were present in the Substances at higher than normal levels? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the

discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 4

Do you contend that Hazardous Substances were mixed with the Substances? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, (3) is not within the scope of Fed. R. Civ. P. 26(b)(1), and (4) is unclear, vague or ambiguous.

RESPONSE: Without waiving and subject to all objections, and to the extent I understand interrogatory 4, I answer as follows: If the mixing asked about refers to the current mixing of Hazardous Substances with the Substances, I answer in the affirmative. The basis for my answer would be numerous tests performed in connection with response actions performed at the Facility, which test results have been produced to Conalco. If the mixing asked about refers to the act of mixing, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 5

Do you contend that the Substances were contaminated with Hazardous Substances through use? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 6

Do you contend that Hazardous Substances were added to the Substances as result of industrial processing? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 7

Do you contend that Hazardous Substances are an indigenous component or inherent in the Substances? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 8

Do you contend that the Substances contained Hazardous Substances which had been purposefully introduced into the Substances by the manufacturer or supplier of the Substances prior to Conalco's use? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 9

With respect to the alleged presence of “oil and hazardous materials at the Facility when Conalco owned and operated the Facility” referenced in paragraphs 45-50 of Count II of the Complaint (hereinafter “Materials”), do you contend that the Materials contained Hazardous Materials not normally present in such Materials? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 10

Do you contend that Hazardous Materials, normally found in such Materials, were present in the Materials at higher than normal levels? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 11

Do you contend that Hazardous Materials were mixed with the Materials? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, (3) is not within the scope of Fed. R. Civ. P. 26(b)(1), and (4) is unclear, vague or ambiguous.

RESPONSE: Without waiving and subject to all objections, and to the extent I understand interrogatory 11, I answer as follows: If the mixing asked about refers to the current mixing of Hazardous Materials with the Substances, I answer in the affirmative. The basis for my answer would be numerous tests performed in connection with response actions performed at the Facility, which test results have been produced to Conalco. If the mixing asked about refers to the act of mixing, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 12

Do you contend that the Materials were contaminated with Hazardous Materials through use? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 13

Do you contend that the Hazardous Materials were added to the Materials as result of industrial processing? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 14

Do you contend that Hazardous Materials are an indigenous component or inherent in the Materials? If your response to the foregoing is in the affirmative, please explain, in detail, the factual basis for your answer.

OBJECTIONS: The interrogatory (1) seeks information that is not relevant to the subject matter of the pending action, (2) is not reasonably calculated to lead to the discovery of admissible evidence, and (3) is not within the scope of Fed. R. Civ. P. 26(b)(1).

RESPONSE: Without waiving and subject to all objections, I answer in the negative since at this time I am without information or knowledge sufficient to form a belief as to the truth of the contention.

Interrogatory No. 15

Please identify by chemical name and CAS number the Hazardous Substances you contend are present in the “oil and hazardous materials at the Facility when Conalco owned and operated the Facility” as referenced in paragraphs 45-50 of Count II of the Complaint.

RESPONSE: Please see attached Exhibit A for a table listing the Hazardous Substances found at the Facility in samples analyzed in connection with response actions performed at the Facility.

Interrogatory No. 16

Please identify by chemical name and CAS number the Hazardous Materials you contend are present in the "oil and hazardous materials at the Facility when Conalco owned and operated the Facility" as referenced in paragraphs 45-50 of Count II of the Complaint.

RESPONSE: Please see attached Exhibit B for a table listing the Hazardous Materials found at the Facility in samples analyzed in connection with response actions performed at the Facility.

Interrogatory No. 17

Do you contend that the Defendant Conalco is responsible for the Substances and/or Materials present in the basement of the Facility prior to August 1967? If your response to the foregoing question is in the affirmative, please explain, in detail, the factual basis for your response.

OBJECTION: The interrogatory calls for legal conclusions which Cariddi, who is not a lawyer, is not qualified to render or cannot be answered without disclosing confidential opinions of Cariddi's counsel as communicated to him concerning the relationships between the various facts and various legal theories.

RESPONSE: I believe Conalco is responsible for all releases it caused, exacerbated or failed to prevent or clean up, based upon, among other things, Mr. Lappies' descriptions of Conalco's practices.

Interrogatory No. 18

Please identify any and all spills, releases and/or disposal of oil and/or hazardous materials as defined under Massachusetts General Laws, Chapter 21E and/or Petroleum

and/or Hazardous Substances as defined under CERCLA at the Facility occurring between 1976 and the present.

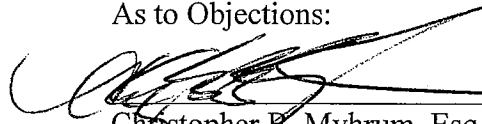
RESPONSE: Maxymillian Technologies reported in the *Phase I Initial Site Investigation Report and Phase II Scope of Work*, at pages 9 and 14, two releases at the Facility since 1976, both at Modern Aluminum Anodizing:

- (1) a release of 50-100 gallons of 35% phosphoric acid on October 4, 1989; and
- (2) a release of 50-100 gallons of fuel oil that was identified on December 6, 1989.

I understand a copy of the report has been provided to Conalco.

As to Objections:

Dated: October 14, 2005


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Gastón de los Reyes
BBO# 662200
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I state under penalty of perjury the foregoing is true and correct.

Dated: October 14, 2005

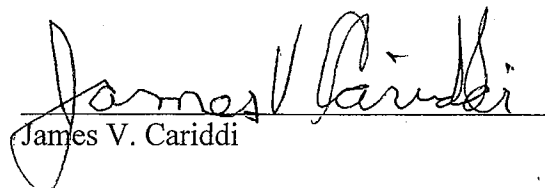

James V. Cariddi

EXHIBIT B

Continued Pages 13 – 21

EXHIBIT A

Exhibit A
CERCLA Hazardous Substances
(Listed at 40 CFR Part 302 - Table 302.4)

<u>Name of Chemical</u>	<u>CAS Number</u>
<i>Metals:</i>	
Arsenic	07440-38-2
Cadmium	07440-43-9
Chromium	07440-47-3
Copper	07440-50-8
Lead	07439-92-1
Mercury	07439-97-6
Nickel	07440-02-0
Silver	07440-22-4
Zinc	07440-66-6

Exhibit A (Continued)
CERCLA Hazardous Substances
(Listed at 40 CFR Part 302 - Table 302.4)

<u>Name of Chemical</u>	<u>CAS Number</u>
<i>Semi-Volatile Organic Compounds:</i>	
Acenaphthene	00083-32-9
Anthracene	00120-12-7
Benzo (a) anthracene	00056-55-3
Benzo (b) fluoranthene	00205-99-2
Benzo (k) fluoranthene	00207-08-9
Benzo (a) pyrene	00050-32-8
Benzo (g,h,i) perylene	00191-24-2
Chrysene	00218-01-9
Fluoranthene	00206-44-0
Fluorene	00086-73-7
Indeno(1,2,3-cd) pyrene	00193-39-5
Phenanthrene	00085-01-8
Pyrene	00129-00-0

Exhibit A (Continued)
CERCLA Hazardous Substances
(Listed at 40 CFR Part 302 - Table 302.4)

<u>Name of Chemical [and Synonym]</u>	<u>CAS Number</u>
<i>Volatile Organic Compounds:</i>	
Isopropylbenzene [Benzene, (1-Methylethyl)- ; Cumene]	00098-82-8
Naphthalene	00091-20-3
o-Xylene	00095-47-6
p-Xylene	00106-42-3
m-Xylene	00108-38-3
Xylene (mixed isomers)	01330-20-7

EXHIBIT B

Exhibit B
Massachusetts Hazardous Materials
(Listed at 310 CMR 40.1600)

<u>Name of Chemical</u>	<u>CAS Number</u>
<i>Metals:</i>	
Arsenic	07440-38-2
Barium	07440-39-3
Cadmium	07440-43-9
Calcium	07440-70-2
Chromium	07440-47-3
Cobalt	07440-48-4
Copper	07440-50-8
Lead	07439-92-1
Lithium	07439-93-2
Magnesium	07439-95-4
Mercury	07439-97-6
Nickel	07440-02-0
Silver	07440-22-4
Vanadium	07440-62-2
Zinc	07440-66-6

Exhibit B (Continued)
Massachusetts Hazardous Materials
(Listed at 310 CMR 40.1600)

<u>Name of Chemical</u>	<u>CAS Number</u>
<i>Semi-Volatile Organic Compounds:</i>	
Acenaphthene	00083-32-9
Anthracene	00120-12-7
Benzo (a) anthracene	00056-55-3
Benzo (b) fluoranthene	00205-99-2
Benzo (k) fluoranthene	00207-08-9
Benzo (a) pyrene	00050-32-8
Benzo (g,h,i) perylene	00191-24-2
Chrysene	00218-01-9
Fluoranthene	00206-44-0
Fluorene	00086-73-7
Indeno(1,2,3-cd) pyrene	00193-39-5
2-Methylnaphthalene	00091-57-6
Phenanthrene	00085-01-8
Pyrene	00129-00-0

Exhibit B (Continued)
Massachusetts Hazardous Materials
(Listed at 310 CMR 40.1600)

<u>Name of Chemical [and Synonyms]</u>	<u>CAS Number</u>
<i>Volatile Organic Compounds:</i>	
2-Chlorotoluene [o-Chlorotoluene, 1-Methyl-2-Chlorobenzene]	00095-49-8
Isopropylbenzene [Benzene, (1-Methylethyl)- ; Cumene]	00098-82-8
Isopropyltoluene [p-Cymene]	00099-87-6
Naphthalene	00091-20-3
n-Propylbenzene	00103-65-1
1,2,4-Trimethylbenzene	00095-63-6
1,3,5-Trimethylbenzene	00108-67-8
o-Xylene	00095-47-6
p-Xylene	00106-42-3
m-Xylene	00108-38-3
Xylene (mixed isomers)	01330-20-7
<i>Other Hazardous Material:</i>	
Waste Oil	None